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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/904,975

07/12/2001

Dan W.C. Delmer

DELME-P2739

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03/18/2008

J. MARK HOLLAND AND ASSOCIATES

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SUITE 210

NEWPORT BEACH, CA 92660

EXAMINER

DUNWOODY, AARON M

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/904,975	Applicant(s) DELMER, DAN W.C.	
	Examiner Aaron M. Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-7 and 35-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,5-7 and 35-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/18/2007 has been entered.

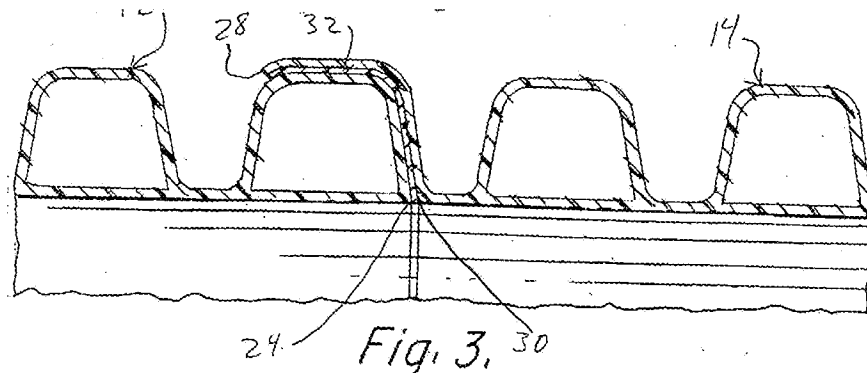
Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

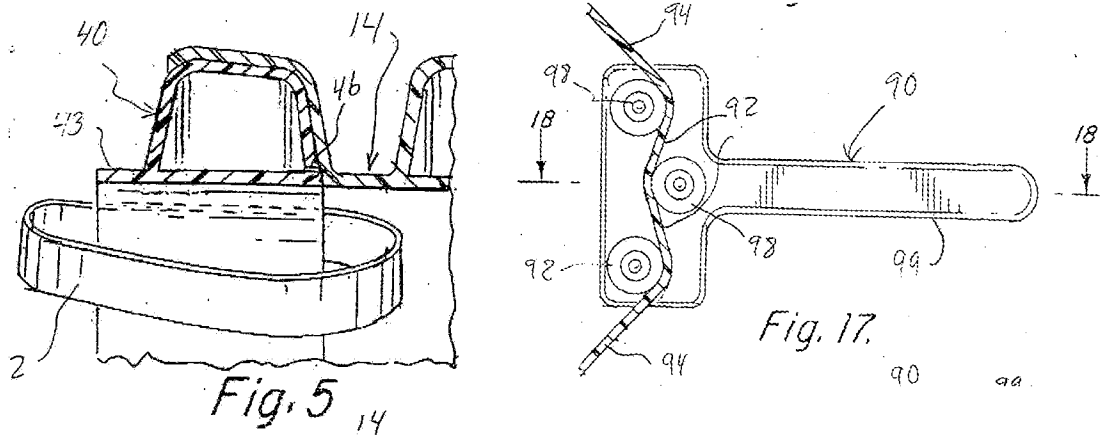
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 35-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 35-42 are drawn to a stretching tool or a temporary stretching-holding device; however, it is not clear to the Examiner how elements further limit the elected invention/apparatus, as illustrated in Figure 3 below of the instant application.



The stretching tool and temporary stretching-holding device are not required to meet the claim limitations of independent claim 2, as evidenced by Applicant's restriction election filed 7/3/2006. The stretching tool and temporary stretching-holding device, illustrated Figures 5 and 17 below, are not part of the final apparatus illustrated above and claimed in the instant application.



The stretching tool and temporary stretching-holding device are tools used to form the end of the pipes, which ends can be formed by various other methods that do not include a stretching tool and a temporary stretching-holding device. At best, the stretching tool and temporary stretching-holding device can be considered intermediate devices that do not represent the final apparatus as claimed in independent claim 2.

Claims 35 and 37 recite the following product-by-process:

35. (New) The apparatus of Claim 2, further including a stretching tool having a channel into which an edge of said first piece of pipe can be inserted in its originally fabricated shape, said tool including means to temporarily deform said edge of said first piece of pipe.

37. (New) The apparatus of Claim 2, further including a temporary stretch-holding device having a first portion for temporary insertion into said temporarily deformed female structure of said first pipe piece, said first portion being sized and configured to retain a sufficient degree of

deformation of said temporarily deformed female structure so that, upon removal of said temporary stretch-holding device from said temporarily deformed female structure, a non-deformed end of said second piece of pipe may be inserted into engagement with said female structure.

The process by which an apparatus formed is not given patentable, only the final apparatus is considered for patentability, and the stretching tool and temporary stretching-holding device are obviously not part of the final apparatus illustrated above. Therefore, the Examiner is unable to determine the meets and bounds of claims 35-42, as these claims fail to further limit independent claim 2, making it impossible for the Examiner to apply an art rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2, 5, 6, 43-47, 49 and 50 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 6416667, Graves.

In regards to claims 2, 43-47, 49 and 50, Graves discloses an apparatus for joining a plurality of pieces of pipe, including:

a first piece of pipe (23) and a second piece of pipe (24) each having a similar size and shape sidewall corrugation pattern along their lengths, the corrugation including a generally repeating sinusoidal pattern in cross section having alternating portions (a) radially more distant from a longitudinal centerline of the pipe and (b) radially less distant from that centerline;

a male engagement structure formed from the sidewall corrugation pattern of the first piece of pipe, the male engagement structure terminating longitudinally at a location along the corrugation pattern that is generally within the radially less distant portion of the corrugation pattern;

a female engagement structure formed from the sidewall corrugation pattern of the second piece of pipe, the female engagement structure terminating longitudinally with a generally open end for receiving the male engagement structure, the termination occurring at a location along the corrugation pattern that is generally within the radially more distant portion of the corrugation pattern,

the first female structure being temporarily deformable to receive the male structure, the temporary deformation being both sufficiently large to permit the insertion of the male structure but also sufficiently small to ensure that material memory returns the first female structure toward its original non-deformed configuration with sufficient compressive force to grip the male structure and to help prevent its inadvertent removal from engagement with the first female structure.

In regards to claim 5, Graves discloses in which said first piece of pipe includes a second female engagement structure remote from said first female structure, said

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second female structure also being temporarily deformed to function as a female structure for receiving a corresponding non-deformed end of a third piece of pipe, said third piece of pipe having a sidewall corrugation pattern along its length that is similar in size and shape to the sidewall corrugation pattern of said first and second pieces of pipe.

In regards to claim 6, Graves discloses a sealing element (107) positioned between confronting surfaces of said first and second pieces of pipe to help provide a watertight seal therebetween.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 7, 48 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves in view of US patent 3330303, Fochler.

In regards to claims 3, 48 and 51, Graves discloses the claimed invention except for an internal non-corrugated liner element. Fochler teaches an internal non-corrugated liner element (14) to support the surrounding outer corrugated tube (col. 3, lines 11-12). As Fochler relates to composite tubing structures, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an internal non-corrugated liner element to support the surrounding outer corrugated tube, as taught by Fochler.

In regards to claim 7, Fochler further teaches an adhesive material acting between confronting surfaces of said first and second pieces of pipe.

In regards to claim 52, Graves in view of Fochler disclose the confronting ends of the respective internal non-corrugated liner elements of the respective pieces of pipe generally form a butt joint with each other, the butt joint providing a substantially smooth interior transition surface longitudinally between the respective pipe elements.

In regards to claim 53, Graves in view of Fochler include a sealing gasket element between the confronting ends of the respective internal non-corrugated liner elements of the respective pieces of pipe.

Response to Arguments

Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron M Dunwoody/
Primary Examiner
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